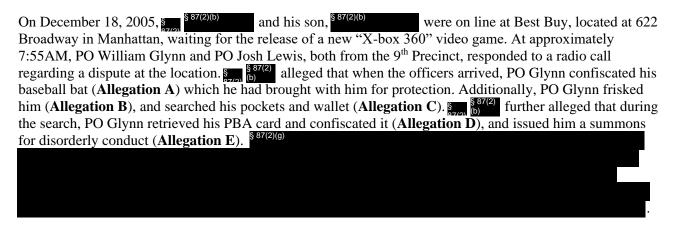
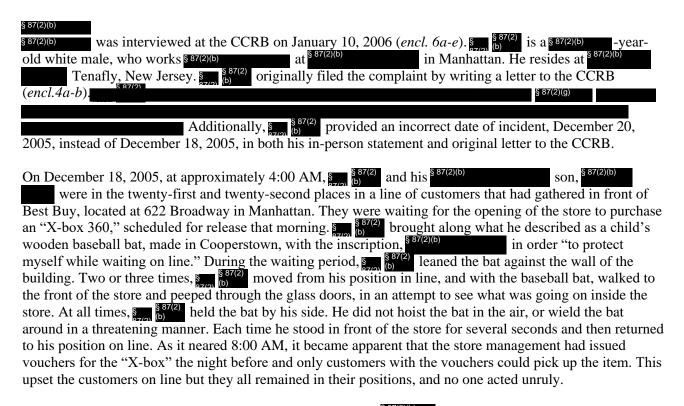
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	Discour	rt. 🔲 U.S.
Rachel Amo		Team # 1	200515480	☑ Abuse	e 🔲 O.L.	☐ Injury
Incident Date(s)		Location of Incident:	1	Precinc	t: 18 Mo. SO	L EO SOL
Sunday, 12/18/2005 7:55 AM		622 Broadway (Best B	uy store)	09	6/18/2007	6/18/2007
Date/Time CV Reported		CV Reported At: How CV Reported:		Date/Time Received at CCRB		
Thu, 12/29/2005 5:10 PM		CCRB	Mail	Thu, 1	2/29/2005 5:10 P	M
Complainant/Victim	Туре	Home Addre	ess	· · · · · · · · · · · · · · · · · · ·		
Witness(es)		Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM William Glynn	31526	932718	009 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POM Josh Lewis	23260	932876	009 PCT			
Officer(s)	Allegatio	on		I	nvestigator Rec	ommendation
A.POM William Glynn	Abuse: P	Abuse: PO William Glynn seized §87(2)(b) s property.				
B.POM William Glynn	Abuse: P	Abuse: PO William Glynn frisked § 87(2)(b)				
C.POM William Glynn	Abuse: P	Abuse: PO William Glynn searched § 87(2)(b)				
D.POM William Glynn	Abuse: P	Abuse: PO William Glynn seized \$87(2)(b) s property.				
E.POM William Glynn	Abuse: P	Abuse: PO William Glynn issued a summons to \$87(2)(b)				

Synopsis



Summary of Statement



and would not let see speak, except when answering his questions. See was not handcuffed. On at least two occasions, he took his right hand off the patrol car and PO Glynn directed him to place his hands back on the car and to keep quiet. PO Glynn asked see why he had the bat, and he responded that he brought the bat for protection.

PO Glynn, without asking, reached into \$370 s pants pocket, and took out his wallet. While looking through \$370 s wallet, PO Glynn found a PBA card in the wallet. PO Glynn took out the card and told \$370 that he was confiscating the PBA card because it belonged to the Patrolmen's Benevolent Association. \$370 did not provide further information about the PBA card. PO Glynn placed the wallet back into \$370 s pants pocket and asked him to check to see if anything was missing. \$370 checked the wallet but was unsure if anything was missing. \$370 stated, "I'm not accusing the officer of taking anything from my pocket." PO Glynn told \$370 stated, "I'm not accusing the officer of taking anything from my pocket." PO Glynn told \$370 stated, "I'm not accusing the officer of taking anything to the station warrants, he would be taken to the stationhouse, and if there were no warrants, he would be issued a summons. PO Glynn ultimately issued \$370 stated and did not return the baseball bat to \$370 and did not provide him with a voucher concerning the baseball bat. After handing \$370 stated and drove away.

was upset that PO Glynn touched him and pushed him, stating that no one was acting disorderly, and he did not exchange words with the officer, yell at or scream at him. [37] [87] wanted the record to show that PO Glynn noted on the summons that he personally witnessed him acting disorderly but this is incorrect as he did not act disorderly, and PO Glynn did not witness such behavior.

Attempts to contact other witnesses

provided a phone statement to the CCRB on January 11, 2006(encl. 7a-c). \$87(2)(b) resides at \$87(2)(b) in Tenafly, New Jersey. \$87(2)(b) is a \$87(2)(b) -old \$87(2)(b) at \$87(2)(b) and is the son of \$87(2)(b) . \$87(2)(b) stated that PO Glynn, "patted down my father, reached into his pants pocket, took out his wallet and looked through the wallet." \$87(2)(b) did not observe PO Glynn take anything out of the wallet. \$87(2)(b) stated that after the incident, perhaps a day or two days later, his father informed him that PO Glynn took his PBA card. However, \$87(2)(b) did not observe PO Glynn take the PBA card. He stated that he was uncertain when his father knew that his PBA card was missing.

On December 18, 2005 at 7:55 AM, \$87(2)(5) called 911 from his cell phone (encl. 15a) to report a dispute between a customer and a worker at Best Buy, located at 622 Broadway in Manhattan. \$67(2)(5) could be heard arguing with multiple parties in the background, who were also arguing among themselves. The statements in the background were garbled but \$67(2)(5) was heard as saying, "I'm not doing anything wrong." The background voices were arguing about the "purchase of an X-box," "thirty-eight customers," and someone responding, "this is private property." The gist of the dispute was that a manager at the Best Buy store took a customer's voucher the night before, and that the manager should not have taken the customer's voucher and then refuse to return it when the customer requested the voucher back. \$87(2)(5) reported that there were no injuries and no weapons involved.

provided a phone statement to the CCRB on March 16, 2006 (*encl. 8*), after he was identified from the "Ani-Ali" listed on the sprint and 911 radio communications. On December 18, 2005, \$87(2)(5) in the fourteenth place, in a line of customers, gathered in front of Best Buy. \$87(2)(6) explained that the

customers on line were upset with the Best Buy managers and were arguing with them over the opening of the store. Se7(2)(b) believed that several of the managers called the police before the store opened because they wanted the customers dismissed from the front of the store. Twice, a pair of officers in a squad car responded to the location, spoke to the managers, and then left, telling the managers that the customers could not be dismissed from the front of the store because they were there to make purchases. Se7(2)(b) also called 911 at approximately 7:55 AM, after an elderly male customer on the line, who spoke only Spanish, got into a dispute with Best Buy managers regarding vouchers for the X-box. Se7(2)(b) explained that he called the police because the managers "caught an attitude" with the elderly male, snatched his voucher out of his hand, and refused to give him back his voucher, when he requested it. Se7(2)(b) stated that there was no incident in which a customer service interact with any customer on the line who had a baseball bat. Se7(2)(b) remembered that before 10:00 AM, two officers spoke to some customers on the line. However, Se7(2)(b) did not recall what was said or what it was about. Se7(2)(b) stated that he did not witness an incident between any officer and customer on the line with a baseball bat.

Attempts to contact more witness

and three months. § 87(2)(b) was interviewed on April 20, 2006 (encl. 9), at the store, located at 622 Broadway in Manhattan. On December 18, 2005, \$87(2)(6) worked from 7:00 AM to 5:00 PM. stated that he recalled the incident regarding the release of the X-box 360's, however, he did not observe states interact with any officer. \$ 37(2)(5) explained that he came to work at around 7:00 AM, and observed approximately thirty to forty people waiting on line in front of the store. §87(2)(b) § 87(2) with a baseball bat in his hand, and he was approximately the twentieth person on the line. § 87(2) was not doing anything with the bat but standing on line. At some point while the customers were still on line, \$87(2)(b) observed \$ \$87(2) walk up to the front of the doors. \$87(2)(b) did not see \$ \$87(2) swing the baseball bat or interact in a threatening manner with anybody on the line. No one on line appeared precautionary measure, he called the 9th Precinct directly to request the presence of officers to patrol the location. He did not call 911 and did not call the police because there was a problem. §87(2)(6) unaware of any dispute between Best Buy employees and other customers on line. § 87(2)(b) some point, two officers in a patrol car came to the location but he did not speak to the officers and did not observe the officers interact with \$ 87(2) or take his baseball bat.

\$ 87(2)(b)

As per Best Buy punch card records, on December 18, 2005, \$87(2)(b) worked from 8:48AM to 8:40 PM and was stationed in front of the entrance to the store. However, \$200 stated that had no recollection of the incident and had no memory of the events surrounding the release of the "X-boxes" (encl. 9).

Officer Statements

PO William Glynn

PO William Glynn of the 9th Precinct was interviewed at the CCRB on March 27, 2006 and on April 3, 2006 (*encl. 12a-c*). On December 18, 2005, PO Glynn worked from 7:05 AM to 3:40 PM with PO Josh Lewis. He was assigned to patrol sector D and was in patrol car # 1386.

PO Glynn had the following memo book entries (*encl. 11a-c*): 7:45 AM: 10-52: dispute with a bat in front of 625 Broadway

8:05 AM: 10-96: summons served, "C" summons 8:35 AM: 10-62 A: administrative at the stationhouse

On December 18, 2005, at approximately 7:05 AM, PO Glynn and his partner, PO Josh Lewis, responded to a radio call regarding a dispute in front the 622 Broadway, the location of a Best Buy store. Upon arrival, PO Glynn observed a large crowd gathered in front of the store. PO Glynn asked some of the members of the crowd what was going on. Some of the members of the crowd directed them to \$67(2)(6) who was standing against the wall, saying, "He's over there." PO Glynn observed (2007) with a bat in his possession, "causing alarm and scarring other people." (2007) was not in line but was standing against the wall of the store. He had the bat in his possession, and he was holding on to it. PO Glynn described the bat as an adult size wooden baseball bat of average length. PO Glynn did not observe (2007) swinging or waving the bat at anyone. However, the crowd stayed away from (2007) It appeared to PO Glynn that people were avoiding (2007) and appeared to be alarmed by the presence of the bat because "they seemed nervous, and moved away from him." PO Glynn did not observe (2007) interact with any member of the crowd. PO Glynn and PO Lewis approached (2007) to determine why he was in possession of the bat. (2007) responded that he had the bat for his protection. PO Glynn explained that it was in the middle of winter, and only (2007) had a bat in a crowd of people. From the onset, PO Glynn explained that he perceived that (2007) was dangerous because he had the bat.

PO Glynn physically guided [5] [87(2)] away from the wall and to the patrol car. [5] [87(2)] was cooperative. PO Glynn did not push \$ 87(2) to the patrol car. Once in front of the car, PO Glynn frisked \$ 87(2) by patting him down on his body to determine if he had any other weapons in addition to the bat. PO Glynn patted him down by the pockets and the waistband. PO Glynn did not recall searching \$ \$87(2) s pockets wallets or jackets. PO Glynn performed the frisk for his safety and for that of secause he had the bat and the crowd appeared to be afraid of him. PO Glynn did not recall PO Lewis assisting him in frisking 8 87(2) The frisk did not yield additional weapons, PO Glynn stated that he did not recall having his hands in \$ \$87(2) s pockets, or looking for his wallet during the frisk. \$ \$87(2) was cooperative with the pat down. express to PO Glynn that he did not want the officer touching him. PO Glynn stated that he asked \$ \$87(2) for his ID, which he provided but he did not recall when he requested \$ \$87(2) to show his ID. PO Glynn did not recall if he reached for \$ 87(2) s ID from his wallet or if \$ 87(2) himself provided the identification. provided his ID, but PO Glynn did not recall what type of ID he presented. PO Glynn did not observe with a Patrolman's Benevolent Association (PBA) card. PO Glynn did not take §87(2) s PBA card and [878] §87(2) did not complain or express to him that he had taken the card or did not want the car taken. PO Glynn did not recall having a discussion with \$ 300 about PBA cards or whether or not should possess the card. PO Glynn did not recall searching states on the scene, going through his pockets or shoes. He may have asked [8] [887(2)] to take off his jacket although he was uncertain if he did. PO Glynn did not recall handcuffing or having his handcuffs out during the incident. PO Glynn stated that he was the principal officer who interacted with PO Glynn confiscated the bat and prepared a voucher for it because he believed \$ \$\ \$37(2)\$ to be dangerous and took the bat to ensure the safety of all present. See [\$87(2)] did not express to PO Glynn that he could not take the bat.

PO Glynn issued [37] [87] a summons for disorderly conduct. PO Glynn explained that [37] [87] was issued this summons because he was acting disorderly, causing "public alarm and a nuisance." When asked if he observed [37] [87] acting disorderly, PO Glynn responded that the crowd was backing away from him, visibly scarred of him. PO Glynn stated that the fact the [38] [87] had a bat and was standing alone holding the bat meant that he was acting disorderly. PO Glynn was re-interviewed on April 3, 2006 [87] [9] PO Glynn reiterated that the fact the [38] [87] had a bat and was standing alone holding the bat meant that he was acting disorderly. He stated that [38] [87] was not doing anything with the bat, waving it in the air or motioning it toward anyone.

PO Josh Lewis

PO Josh Lewis of the 9th Precinct was interviewed at the CCRB on April 3, 2006 (*encl. 14a-b*). S87(2)(9)
On December 18,
2005, PO Lewis worked from 7:05 AM to 3:40 PM with PO William Glynn. He was assigned to patrol sector B/D and was in patrol car # 1386. PO Lewis had the following memo book entries (*encl. 13a-b*):

7:45 AM: 10-52: dispute with a baseball bat in front of 625 Broadway

8:05 AM: 10-96: summons served

8:35 AM: 10-62 A: administrative at the stationhouse

PO Lewis testified that on December 18, 2005, at approximately 7:45 AM, he and PO Glynn responded to a dispute in front the 622 Broadway, regarding "a man with a bat." PO Lewis observed standing against the building, just standing there. He had the bat in his hand and down to his side and was not waving it in the air or at people who were nearby. The officers approached [800] [887(2)] and directed him to approach their vehicle so that they could talk to him away from the crowd. Before directing \$ 87(2) to the car, the officers took away the bat from him. \$ 887(2) was verbally uncooperative with the frisk in that he was yelling at the officers that "he needed the bat for protection because it was a rough crowd." also objected to the confiscation of the bat stating that he had to return the bat to his son. PO Lewis did not go through \$ \$87(2) s pockets to get his ID and he did not ask \$ \$87(2) for his wallet. PO Lewis did not observe PO Glynn take \$ \$87(2) s wallet from his pockets. PO Lewis did not observe \$ \$87(2) with a PBA card and there was no discussion about PBA cards. PO Lewis did not observe PO Glynn take \$87(2) s PBA card and he himself did not take the card from [88] [887(2)] PO Lewis did not conduct a search of [88] \$87(2) s person and did not observe PO Glynn do so. PO Glynn issued \$15,87(2) a summons for disorderly conduct. PO Lewis explained that was issued the summons because "he was causing public alarm, and creating a dangerous condition by having the bat, and scaring people away." PO Lewis explained that he did not observe see see series people away and that had he observed that, see series would have been

Police Documents

911 and radio communications

According to Sprint job #\$57(2)(5) and its 911 recording (*encl. 15a-c*), on December 18, 2005 at 7:55 AM, called 911 to report a dispute between a customer and a worker at Best Buy, located at 622 Broadway in Manhattan. According to the radio communications, Central dispatched officers of the 9th Precinct assigned to sector A, and C, and officers assigned to the 6th Precinct sector A to a (10-52) dispute between a customer and a worker on the first floor of the Best Buy store at West Houston Street and Broadway in Manhattan. Officers at the 6th Precinct (who happened to be female officers) told Central that the Best Buy store was in the vicinity of the 9th Precinct. Consequently, the 9th Precinct responded to the job. Ninth Precinct Sector C responded to the job and marked it as a (10-91) non-crime corrected.

Summons # § 87(2)(b)

On December 18, 2005, PO William Glynn issued a disorderly conduct summons to [876] [887(2)] (*encl. 10*). The summons lists that [876] [887(2)] was in violation of Penal Code §240.20. However, the subsection stipulation [877] [887(2)] is violation is not listed.

Property voucher #§87(2)(b)

PO Glynn prepared a property voucher in connection with the seizure of [37(2)] s baseball bat (encl. 17). The following is noted on the voucher: "1 wooden "Cooperstown" baseball bat."

Civilian CCRB Complaint and Criminal History

\$ 87(2) has no record of past CCRB complaints [\$ 87(2)(b)] [\$ 86(1)(3)&(4)] [\$ 87(2)(c)] [\$ 87(2

Officer CCRB History

PO William Glynn is a two-year veteran of the NYPD with no history of substantiated allegations on his record (*encl.*2).

Conclusions and recommendations

Officer Identification and pleading of allegations

identified PO Glynn based on his tax ID displayed on the summons he was issued. PO Glynn's identity was confirmed via the roll call (*encl. 16a-f*) and the property voucher (*encl.17*) he prepared in connection to the case. PO Lewis was identified based on PO Glynn's statement and the roll call. Ser(2)(9)

Facts of the case

On December 18, 2005, [Section 2005] and his son, [Section 2005] were waiting on line in front of the Best Buy store, located at 622 Broadway in Manhattan to purchase an "X-box 360" video game. [Section 2005] brought a baseball bat with him for protection. As a precautionary measure because of all the customers on line, Best Buy Manager, [Section 2005] called the 9th Precinct to request officer presence at the location. At 7:55 AM, who was also a customer on line, called 911 to report a separate incident from that being investigated, regarding a dispute between a Best Buy employee and another customer on line regarding vouchers for the "X-boxes." Also at 7:55 AM, PO William Glynn and his partner, PO Josh Lewis, of the 9th Precinct, arrived at the Best Buy, in regard to a radio call about a dispute at the location. Upon arrival, both officers observed [Section 2005] standing against the wall of the store, alone, with the baseball bat. Both officers and civilians narrated that [Section 2005] [Section 2005] was not holding the bat in a threatening manner and he was not engaged in a dispute with anyone.

Nevertheless, PO Glynn and PO Lewis asserted that [Section 2005] [Section 2005] was "causing public alarm, and scaring the customers on line," prompting PO Glynn to confiscate the baseball bat, and issue him a summons for disorderly conduct [Section 2005]

Credibility Analysis

Civilians
§ 87(2)(g)
Officers
§ 87(2)(g)

Allegation A: Abuse of Authority: PO William Glynn seized \$87(2)(b) s property.

Allegation E: Abuse of Authority: PO William Glynn issued a summons to \$87(2)(b)

Penal Law §240.20 (encl. 1d) defines a person guilty of disorderly conduct as one who "with intent to cause public inconvenience, annoyance or alarm, or recklessly creates a risk thereof: engages in fighting or in violent, tumultuous or threatening behavior, or makes unreasonable noise, or in a public place, uses abusive or obscene language or makes an obscene gesture, or without lawful authority, disturbs any lawful assembly or meeting of persons, or obstructs vehicular or pedestrian traffic, or congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse, or creates a hazardous or physically offensive condition by any act which serves no legitimate purpose."

§ 87(2)(g)
As noted in PD v. Maynard and Hiddessen (June 2001, <i>encl. 1e-h</i>), "to decide whether officers should be found guilty of misconduct, we must decide first whether the police action was illegal and second, whether the officers knew or should have known that what they were doing was wrong." The police department established in PD. v. Dowd (1990, <i>encl. 1i-k</i>), that "the fact that a search or a seizure may be seen to be improper after the scrutiny of a trial does not by itself render the search or seizure punishable misconduct." Still in PD. v. Dowd, (1990), the police department established that "an improper search or seizure is punishable misconduct if the officer acted with knowledge that he was acting improperly, acted without concern for the propriety of his actions, or acted without due and reasonable care that his actions be proper." Moreover, "an officer is charged to know the law governing searches and seizures, at least to the extent that the law is clear enough to be free from fair dispute about its applicability and meaning. Failure to act in accordance with clear law will generally be presumed to involve fault."
§ 87(2)(g)
Allegation B: Abuse of Authority: PO William Glynn frisked 887(2)(b)
§ 87(2)(g)
Patrol Guide Procedure 212-11 (<i>encl. 1a-c</i>) states that an officer can frisk a suspect based upon reasonable suspicion that he/she or others are in danger of physical injury. § 87(2)(9)
Allegation C: Abuse of Authority: PO William Glynn searched [887(2)(b)
§ 87(2)(g)

§ 87(2)(g)							
Allegation D: Abuse of Authority: PO William Glynn seized § 87(2)(b)							
§ 87(2)(b), § 87(2)(g)							
stated that his father told him that his PBA card was missing a couple of days after the incident. Both PO Glynn and PO Lewis stated they had no knowledge that a PBA card. PO Glynn stated that he did not recall having any conversation with stated that he PBA card. There is no property voucher for a PBA card belonging to stated that he property index form for him. \$87(2)(9)							
Investigator:	Date:						
Supervisor:	Date:						
Reviewed by:	Date:						
Reviewed by:	Date:						

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